RB-2000-04 Guidance on Office Closing Notices

PURPOSE

This bulletin provides guidance to credit unions concerning requirements that a credit union must meet prior to any office being permanently closed.

BACKGROUND

Commission Rule 91.5005 [1] provides that any credit union may permanently close any of its established offices. The credit union, however, must provide notice to its members and the Department no later than 60 days prior to the proposed closing. In addition, the credit union must post a notice to its members in a conspicuous manner on the premises of the effected office at least 30 days prior to the proposed closing.

APPLICABILITY

Commission Rule 91.5005 applies to the closing of an "office" by a credit union. The Department considers an "office" for purposes of this rule to be a traditional brick-and-mortar office or similar credit union facility, at which deposits are received, checks or share drafts paid, or money lent. Thus, for example, notice pursuant to the rule would not be required for the closing of an ATM.

A credit union must file an office closing notice whenever it closes an office, including when the closing occurs in the context of a merger, consolidation or other form of acquisition. The responsibility for filing the notice lies with the acquiring or surviving state-chartered credit union, but either party to such a transaction may give the notice.

Thus, for example, the surviving credit union may give the notice prior to consummation of the transaction where the surviving credit union intends to close an office following consummation. In this example, if the transaction were to close ahead of schedule, the surviving credit union could operate the office to complete compliance with the 60-day requirements without the need for an additional notice.

The rule does not apply when an office is relocated. For purposes of this bulletin, an office relocation is a movement within the same immediate neighborhood that does not substantially affect the nature of the services or members served. Generally, relocations will be found to have occurred only when short distances are involved; for example, a move across the street, around the corner, or a block or two away. Moves of less than five miles will generally be considered to be relocations. In less densely populated areas where neighborhoods extend farther and a long move would not significantly affect the nature of the services or the members served by the branch, a relocation may occur over substantially longer distances.

Consolidations of offices are considered relocations if the offices are located within the same neighborhood and the nature of the services or members served is not affected. Thus, for example, a consolidation of two offices on the same block following a merger would not constitute an office closing. The same standards apply to consolidations as to relocations.

Commission Rule 91.5005 does not apply when an office ceases operation but is not closed by a credit union. Thus, the rule does not apply to a temporary interruption of service caused by an event beyond the credit union's control (e.g., a natural catastrophe) if the credit union plans to restore credit union services at the site in a timely manner.[2]

NOTICE OF OFFICE CLOSING TO THE DEPARTMENT

The rule requires a credit union to give notice of any proposed office closing to the Department no later than 60 days prior to the date of the proposed office closing. The required notice should include the proposed date of closing and a detailed statement of the reason(s) for the decision to close the office.

NOTICE OF OFFICE CLOSING TO MEMBERS

The rule requires a credit union that proposes to close an office to provide notice of the proposed closing to its members. A credit union must include a member notice at least 60 days in advance of the proposed closing in at least one of the regular account statements mailed to its members, or, at the credit union's discretion, in a separate mailing. If the office closing occurs after the proposed date of closing, no additional notice is required to be mailed to members if the credit union acted in good faith in projecting the date for closing and in subsequently delaying the closing.

The mailed member notice should state the location of the office to be closed and the proposed date of closing, and either identify where members may obtain service following the closing date or provide a telephone number for members to call to determine such alternative sites.

Under Commission Rule 91.5005, a credit union must post notice to members in a conspicuous manner on the office premises at least 30 days prior to the proposed closing. This notice should state the proposed date of closing and identify where members may obtain service following that date or provide a telephone number for members to call to determine such alternative sites. A credit union may revise the notice to extend the projected date of closing without triggering a new

30-day notice period.

In some situations, a credit union, in its discretion and to expedite transactions, may mail and post notices to members of a proposed branch closing that is contingent upon an event. For example, in the case of a proposed merger or consolidation, a credit union may notify members of its intent to close an office upon approval by the appropriate credit union regulatory agencies of the proposed merger or consolidation.

^[1] The provisions of Commission Rule 91.5005 were adopted to be effective March 13, 2006 and replaced Commission Rule 91.401(b).

^[2] Commission Rule 91.5005 would apply, however, if the credit union were closed or did not reopen the office following the incident. Although prior notice would not be possible in such a case, the credit union should notify the members and the Department as soon as possible after the decision to close the office has been made. For notification requirements in the event of an emergency closing, refer to Commission Rule 91.5001.